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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,993

09/15/2005

Siegfried Sumser

SUMSER ET AL - 1PCT

1714

25889 7590 02/28/2007  
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EXAMINER

TRIEU, THAI BA

ART UNIT

PAPER NUMBER

3748

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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2 MONTHS

02/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/521,993	Applicant(s) SUMSER ET AL.	
	Examiner Thai-Ba Trieu	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/19/2005 &amp; 09/15/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

The Preliminary Amendment filed on January 19, 2005 is acknowledged.

Claims 1-14 were amended.

This application is in condition for allowance except for the following formal matters:

#### **1. Information Disclosure Statement:**

The information disclosure statements filed on January 19, 2005 and September 15, 2005 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed.

The information referred to therein has been considered and cited in the Notice of References Cited (PTO form 892).

#### **2. IN SPECIFICATION:**

1. The disclosure is omitted the following headings of the specification are missing, such as:

- ***Background of the invention.***
- ***Brief summary of the invention.***
- ***Brief Description of the Drawing(s).***
- ***Detailed Description of the Preferred embodiments.***

Appropriate correction is required.

2. On Page 1, Paragraph 1, Applicants disclose "The invention relates to an exhaust gas turbocharger ... in ***according with the preamble of claim 1***"; however, claim may be amended or cancelled during the prosecution of the instant application, and therefore, is not an appropriate characterization of the invention. Accordingly, applicants are required to revise this paragraph.

3. On Page 2, Paragraph 3, Applicants disclose "This problem is solved ... in ***with the characteristic of claim 1***"; however, claim may be amended or cancelled during the prosecution of the instant application, and therefore, is not an appropriate characterization of the invention. Accordingly, applicants are required to revise this paragraph.

### **3. IN CLAIMS:**

- In claim 1, line 1, "***Exhaust gas turbocharger***" should be replaced by – **An exhaust gas turbocharger** --.

- In claims 2-14, line 1, "***Exhaust gas turbocharger***" should be replaced by – **The exhaust gas turbocharger** --.

### ***Conclusion***

The IDS(s) (PTO-1449) filed on January 19, 2005 and September 15, 2005 have been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Schmid et al. (US Patent Number 7,127,893 B2) disclose an internal combustion engine comprising a compressor in the induct tract.
- Sumser et al. (US Patent Number 7,073,334 B2) disclose a variable exhaust gas turbocharger.
- Fledersbacher et al. (US Patent Number 6,378,307 B1) disclose an internal combustion engine with an exhaust gas turbocharger and associated method.
- Fledersbacher et al. (Pub. Number 2005/0265822 A1) disclose a method of operating a compressor of an exhaust gas turbocharger .
- Sumser et al. (Pub. Number US 2002/0116926 A1) disclose an exhaust gas turbocharger for an internal combustion engine and a corresponding method
- Woollenweber et al. (US Patent Number 6,079,211) disclose two-stage supercharging systems for an internal combustion engine.
- Halami et al. (US Patent Number 5,560,208) disclose a motor assisted variable geometry turbocharger system.
- Erwin (US Patent Number 3,460,748) discloses a radial flow machine.
- Switzer et al. (US Patent Number 3,369,737) disclose a radial flow machine.
- Jenny Ernst (Pub. Number CH 407401) discloses a method and apparatus for controlling thermal fluid flow machine.
- Kohnle (Pub. Number FR 1 303 779) discloses an exhaust gas turbine.

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Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (571) 272-4867. The examiner can normally be reached on Monday - Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

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Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TTB  
January 22, 2007



Thai-Ba Trieu  
Primary Examiner  
Art Unit 3748